

DD/S 71-3321

D D / S R E G I S T R Y

FILE Security
20 AUG 1971

MEMORANDUM FOR: Mr. William H. Rehnquist
Chairman, Security Review Committee

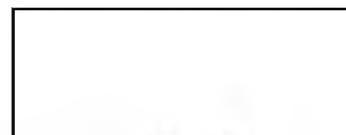
SUBJECT : Safeguarding Official Information in the
Interests of the Defense of the United
States (Executive Order 10501, as
amended)

1. Pursuant to your request, we have reviewed the Atomic
Energy Commission (AEC) paper captioned "Actions to Pategally
Indicate Objective of Preventing Excessive Classification" and
submit the following comments.

2. From a legal point of view we believe that the revisions
proposed by our Office of General Counsel as set forth in our
memorandum dated 20 August 1971 in reply to your 5 August 1971
paper) would meet many of the AEC's basic objectives. Furthermore,
by the gradation of offenses there is eliminated one of their
concerns that sanctions for misuse of confidential information
presently come under the Espionage Laws. In the proposed
revision this is no longer the case. There are specific sections
dealing with mishandling of information which are separate from
the sections dealing with espionage.

3. In addition to the legal aspects of one of the AEC pro-
posals, it is our view that the elimination of CONFIDENTIAL as
a defense and foreign relations classification would degrade the
SECRET category in that an original classifier would be faced,
in many cases, with either not classifying a document or placing
it in the SECRET category. In most cases, we feel, he would
classify it SECRET thus devaluting the concept of SECRET which
should be maintained. Moreover, there would always be a risk
that some data which should be protected might not be with a
deleterious effect on our national defense and/or foreign relations
interests.

4. AEC's other proposal to recast the CONFIDENTIAL level of classification from "the unauthorized disclosure of which could be prejudicial to the national security interests of the nation" to "the unauthorized disclosure of which would normally be expected to cause serious harm to the national defense of the U. S. or its conduct of foreign relations," seems to us to draw too fine a line between CONFIDENTIAL and SECRET. Since "grave" and "serious" are synonymous the only difference between SECRET and CONFIDENTIAL in the AEC proposal is as follows: In the SECRET category the unauthorized disclosure "would cause grave harm to the nation" while in the CONFIDENTIAL category unauthorized disclosure "would normally be expected to cause serious harm to the nation." The degree of harm would be identical in both. We believe that most classifiers would have difficulty making a judgment between SECRET and CONFIDENTIAL under this proposal. Moreover it has been suggested that penalties and sanctions for the unauthorized disclosure of CONFIDENTIAL data be relatively light as compared to those for TOP SECRET and SECRET. Under the AEC proposal, although the degree of damage to the national interest would be about the same if CONFIDENTIAL or SECRET information were improperly disclosed, the sanctions levied would vary widely depending upon the classification of the document and not upon the degree of damage to the nation.



CIA Member

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cc: Mr. Howard C. Brown, Jr. - AEC
Mr. Joseph J. Liebling - Defense
Mr. William D. Blair, Jr. - State
Mr. Thomas K. Latimer - NSC

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10501, as amended)

CONCURRENCES:

1st John S. Warner

for Lawrence R. Houston
General Counsel

20 AUG 1971

Date

S I G N E D

John W. Coffey
Deputy Director
for Support

20 AUG 1971

Date

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